



Texas House of Representatives
Insurance Committee
RE: Notice of Formal Request for Information
Submitted via email to: Sergio.Cavazos_HC@house.texas.gov.

September 8, 2020

Dear Chair Lucio, Vice Chair Oliverson, and Committee Members,

Texas Appleseed is a public interest justice center. As part of our fair financial services project, we work on systemic reforms to balance the scales for Texans, in support of financial well-being. We are submitting this letter in response to the committee call for comments related to issues under the committee jurisdiction.

This submission is in response to item 5 under COVID-related concerns:

Has there been a decrease in auto insurance claims during the COVID-19 pandemic?
How many auto insurers have issued credits or rebates to their policyholders due to the COVID-19 pandemic? If so, how was the amount of this credit or rebate determined? What steps are state agencies taking in order to ensure that auto rates are not excessive as a result of a presumptive decrease in driving and claims associated with the COVID-19 pandemic?

Texas Appleseed has engaged in in-depth study of driving, crashes and auto insurance rebates during the pandemic, with a focus on the period of March 10 through June 1, 2020—the period immediately before the stay at home orders through the initial lifting of many of the orders and closures. A Texas Appleseed issue brief providing details regarding auto insurer rebates and refunds, published in June of 2020, is included as an addendum to this comment letter.

It is important to note that the impact of the COVID-19 pandemic on driving and crashes continues and merits on-going monitoring to ensure that auto insurers in Texas are complying with state law, including Sec. 2251.051 of the Texas Insurance Code, which protects Texans from excessive rates. Auto insurance is the only market product that Texans are forced to purchase to comply with state law, making enforcement of fair pricing essential.¹

Our research reveals three top findings:

1. Crashes in Texas decreased substantially due to reduced driving during the pandemic.
2. Rebates by auto insurers are inconsistent and insufficient, leading to an estimated \$606 million to \$879 million coronavirus windfall for auto insurers in Texas.
3. Data from the Office of Public Insurance Council indicate efforts by multiple insurers to raise premiums despite reduced claims during the pandemic.

Taken together, these findings indicate the need for regulators to hold all auto insurers accountable to state law and ensure that, in these most desperate economic times, Texans are given appropriate

¹ Texas Transportation Code, Sec. 601.

refunds of auto insurance premiums, in compliance with state law.

Research Findings:

1. Crashes in Texas decreased substantially due to reduced driving during the pandemic.

An analysis of vehicle miles traveled and crashes in Texas during the height of stay-at-home orders during the pandemic shows that both metrics fell compared to the same period in 2019. Vehicle miles traveled from mid-March through early May were down 49% or more, peaking at a 67% decrease for the week of March 31 and a 66% decrease for the week of April 7.

Texas Change in Vehicle Miles Traveled

March 10-June 1, 2020

Compared to Average Daily Vehicle Miles Traveled in January of 2020

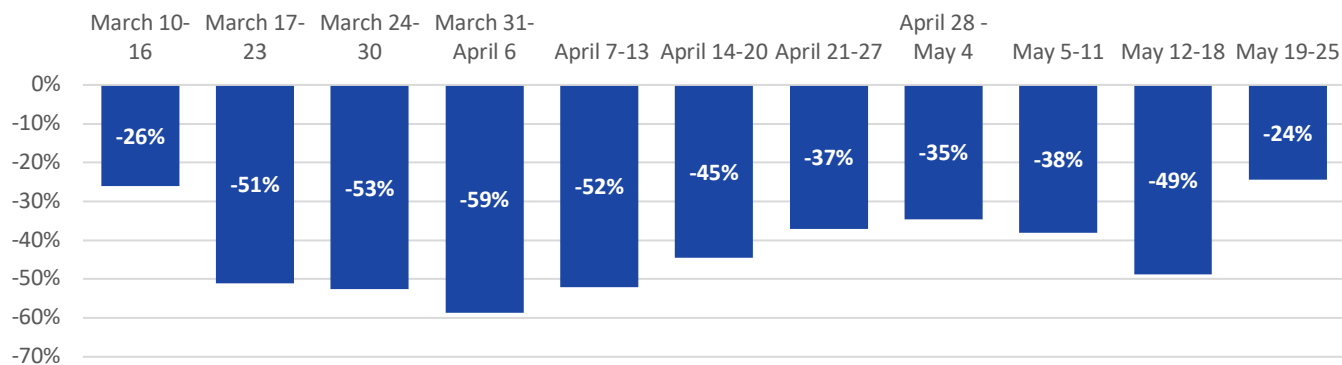
March 10 - 16	March 17 - 23	March 24 - 30	March 31 – April 6	April 7 - 13	April 14 - 20
22%	-49%	-61%	-67%	-66%	-61%
April 21 - 27	April 28 – May 4	May 5 - 11	May 12 - 18	May 19 - 25	May 26 - June 1
-56%	-49%	-41%	-43%	-30%	-28%

Source: StreetLight Data (June 12, 2020).

Crashes decreased as well during the same time-period, peaking at a 59% decrease the week of March 31 and a 52% decrease the week of April 7. These two metrics alone support meaningful decreases in auto insurance charges. A more detailed analysis further supports the finding.

Percent Decline in Auto Accidents in Texas Compared to Same Period in 2019

Average Weekly Decline of 43% from March 10 to May 25, 2020

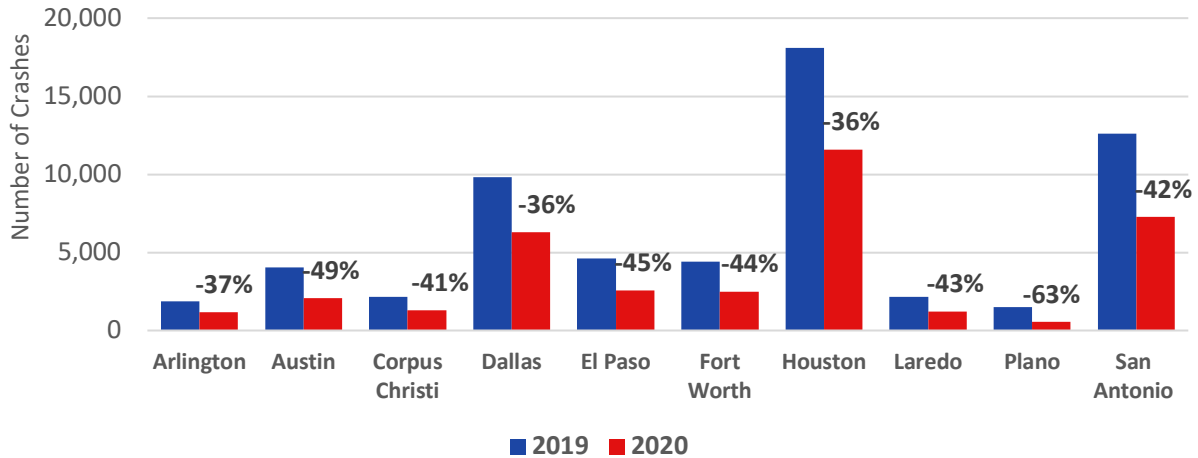


Source: Texas Department of Transportation Crash Records Information System, accessed June 16, 2020. Analysis by Consumer Federation of America.

An examination of the number of crashes by geography from March 10-June 1, 2020, compared to the same time-period in 2019, shows high reductions across the state. Among the ten largest Texas cities, crash reductions ranged from 36% to 63%, with crashes in most cities averaging 40% to 50% lower.

Number and Percent Change in Total Crashes for 10 Largest Texas Cities

Comparison of Totals March 10 - June 1, 2019 and 2020

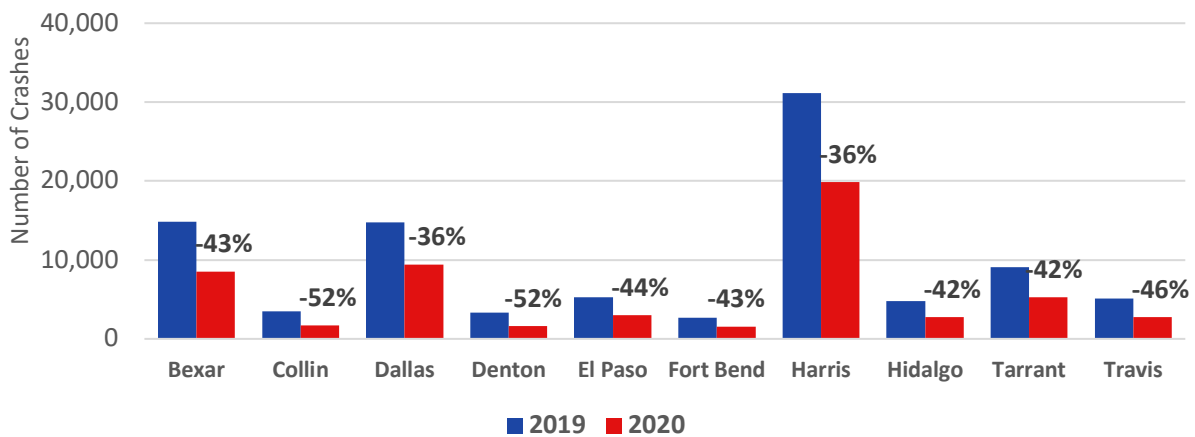


Source: Texas Department of Transportation Crash Records Information System, accessed July 2, 2020. Analysis by Texas Appleseed.

An analysis of declining crashes in the ten largest Texas counties reveals a similar pattern, with significant reductions across the board. Reductions in crashes ranged from a 36% decline to a 52% decline.

Number and Percent Change in Total Crashes for 10 Largest Texas Counties

Comparison of Totals March 10 - June 1, 2019 and 2020

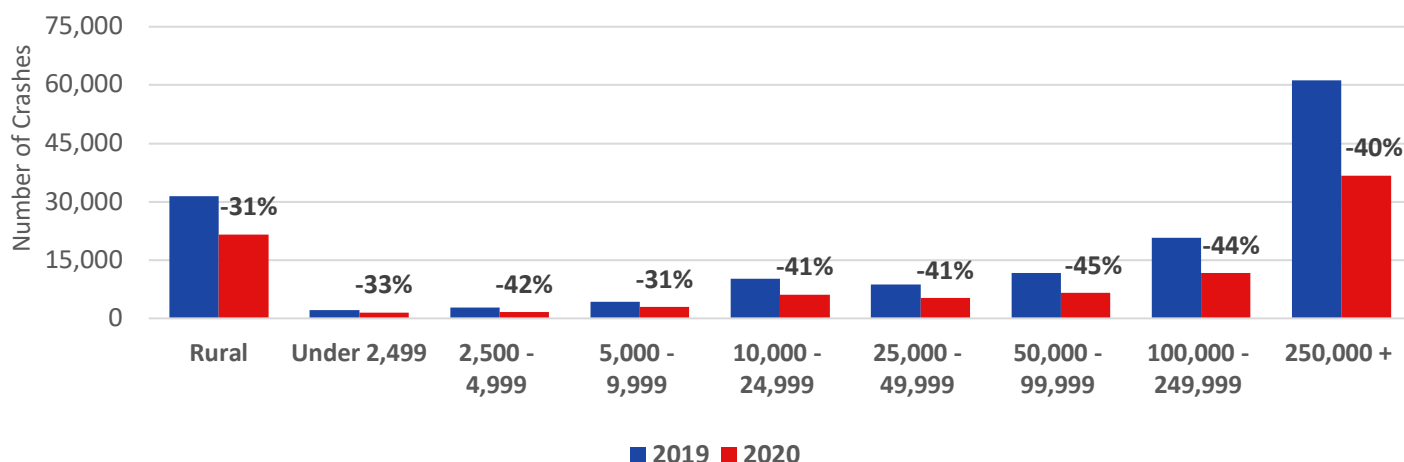


Source: Texas Department of Transportation Crash Records Information System, accessed July 2, 2020. Analysis by Texas Appleseed.

Looking at data for the full state, based on the population of a community, ranging from rural communities to those of 250,000 or more people, again a similar pattern emerges, with substantial reductions in crashes across all sizes of communities. Mid-sized to larger communities had the greatest decline in crashes, and even the most rural areas saw crashes decline by nearly one-third.

Number and Percent Change in Total Crashes for Texas Cities by Population Grouping

Comparison of Totals March 10 - June 1, 2019 and 2020

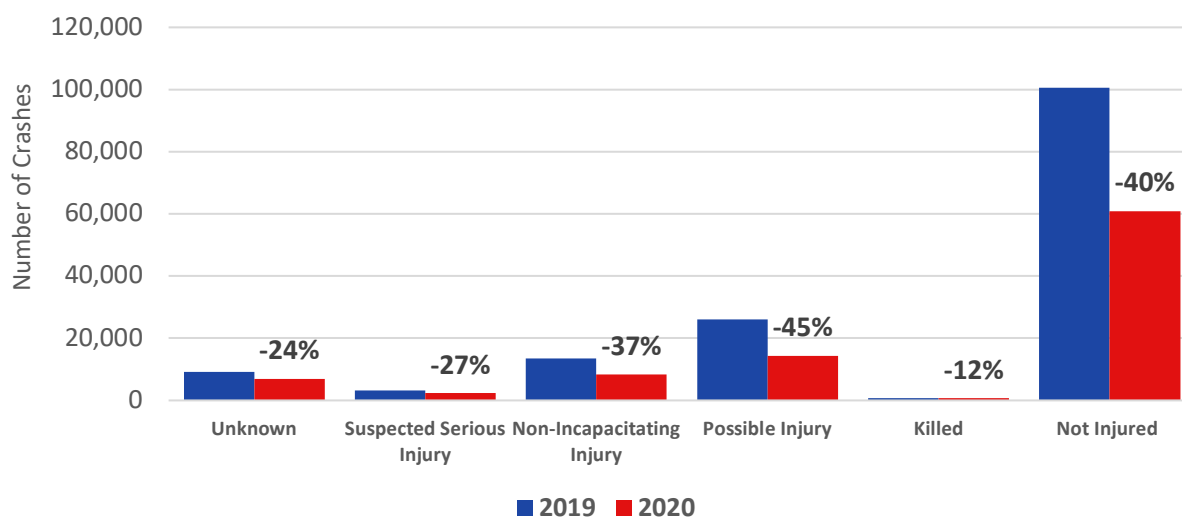


Source: Texas Department of Transportation Crash Records Information System, accessed July 2, 2020. Analysis by Texas Appleseed.

An analysis of the severity of crashes shows declines across all crash categories, from least to most severe. Crashes with possible injury decreased the most, by 45%. The number of people killed saw the

Number and Percent Change for Crash Type Totals

Comparison of Totals March 10 - June 1, 2019 and 2020



Source: Texas Department of Transportation Crash Records Information System, accessed July 2, 2020. Analysis by Texas Appleseed.

lowest level of reduction, a decline 12%; however, deaths continued to make up a very small proportion of crashes, at less than 1%. Overall, the distribution of crash severity measures remained substantially consistent compared to the same period in 2019.

Crash Type as a Percent of All Crashes
Comparison of Percentages March 10 - June 1, 2019 and 2020

Crash Type	2019	2020
Unknown	6.0%	7.4%
Suspected Serious Injury	2.1%	2.5%
Non-Incapacitating Injury	8.8%	9.0%
Possible Injury	17.0%	15.3%
Killed	0.5%	0.7%
Not Injured	65.7%	65.1%
Grand Total	100.0%	100.0%

Source: Texas Department of Transportation Crash Records Information System, accessed July 2, 2020. Analysis by Texas Appleseed.

2. Rebates by auto insurers are inconsistent and insufficient, leading to an estimated \$606 million to \$879 million coronavirus windfall for auto insurers in Texas.

A study examining crash data in Texas and other states estimates that relief payments should total between 25% and 30% of premiums for 3 months.² Our analysis of relief payments offered by the top forty Texas auto insurers by market share estimated that the total amount of rebates offered left Texas auto insurance customers over-paying to the tune of \$606 million to \$879 million for the first three months of the pandemic.³ Among the top 40 auto insurers, covering more than 90% of the Texas market:

- 30% of the companies offered no rebate;
- Among those offering rebates, amounts varied substantially, from one-time payments, to a one-month 15% rebate, to multiple months of rebates of 15% to 25% of monthly premiums;
- At least two insurers required customers to renew their policies before receiving any rebate, a concerning practice for its anti-competitive nature as well as its effect of denying non-renewing customers rebates that they should receive; and
- Non-standard providers, often serving the lowest income Texans, were the least likely to offer any rebate, with only one offering a rebate to customers.⁴

Available profit data for major auto insurers supports the assertion that at least some companies are not refunding enough to their customers. For example:

² Consumer Federation of American and the Center for Economic Justice, [“New Car Accident Data Show That Most Auto Insurance COVID-19 Refunds Should Be Twice as Much as Promised to Date.”](#) (May 7, 2020).

³ [“COVID-19 Pandemic Should Not Be Profit Boon for Texas Auto Insurers,”](#) Texas Appleseed (June 23, 2020). This issue brief is included as an addendum to this letter.

⁴ *Id.* at 2.

- GEICO reported \$2.1 billion in profits for the second quarter of 2020, compared to \$393 million in the second quarter of 2019, a five-fold increase in profits.⁵
- Progressive reported net income up 83%, to \$2.3 billion for the second quarter of 2020.⁶
- Both companies cited lower auto claims as the reason for the increase in profits and income.

In addition to excess profits stemming from insufficient rebates due to the pandemic, another important issue to highlight is the changing nature of credit scores in light of the pandemic and the need to revisit how they are considered in insurance pricing for at least a one to five-year period in the future. With millions of Texans impacted by job losses due to the pandemic, it is likely that, once forbearance and other assistance expire, many families will see their credit scores decline, not due to specific individual actions, but instead due to the broad-based economic impacts of the pandemic.

Texas law currently permits credit scores to be used for insurance pricing. There is an onerous process under [Sec. 559.103 of the Texas Insurance Code](#) to request that credit scores not be used. A request to waive consideration of credit scores must be submitted in writing and on an individual basis. In light of the broad-reaching economic impacts of the pandemic, a new process is needed to ensure that people are not charged higher rates on their insurance due to the current economic downturn.

3. Data from the Office of Public Insurance Council indicate efforts by multiple insurers to raise premiums despite reduced claims during the pandemic.

On August 18, 2020, Texas Appleseed submitted a public information request to the Office of Public Insurance Council (OPIC) to better understand recent actions by auto insurers related to rate setting and the pandemic. The request yielded over 70 documents, which demonstrate the very important work of OPIC in support of fair auto insurance pricing for Texans, but also show some concerning trends:

- Between April 6, 2020 and August 14, 2020, OPIC opposed, as excessive, rate increase filings by at least six different insurers and affiliate agencies.⁷
- OPIC recently opposed a filing by one auto insurer proposing to use multiple criminal record factors to price insurance, including misdemeanor and felony information unrelated to driving. It appears, based on the information, that this action had been previously attempted and was opposed in the past. It is deeply concerning that auto insurers are attempting to use such factors in violation of state law.
- OPIC opposed a filing that attempted a back-door method of raising rates, by nearly doubling charges for installment billing fees that would have resulted in increased costs to customers of more than \$100 over a one-year period.

⁵ Andrew Simpson, [“Updated: GEICO, Gen Re Are Bright Spots in Otherwise Tough Q2 for Buffett’s Berkshire Hathaway,”](#) Carrier Management (August 9, 2020).

⁶ Andrew Simpson, [“Progressive Q2 Profits Up on Fewer Accidents; CEO Says, ‘Black Lives Matter’ Vows Action,”](#) Insurance Journal (August 10, 2020).

⁷ Rate filings that were opposed include filings by: Homestate County Mutual (MIC Insurance Agency); Homestate County Mutual (SNAP Program); Homestate County Mutual (Kemper Personal Auto); Integon Indemnity Corporation; Old American County Mutual Insurance (United Group Underwriters); numerous Nationwide companies; and Hartford Insurance Company of the Midwest. Additional concerns were raised in email correspondence related to Allstate and Dairyland Insurance.

Taken together, the three top findings in this letter raise concerns about excessive auto insurance pricing during the pandemic and demonstrate the need for additional regulatory and legislative oversight.

Helpful steps to address these concerns include:

- Direct the Texas Department of Insurance to:
 1. Publish quarterly data comparing auto insurance company premiums and claims for 2019 with the same data from the 2020, to better understand how the COVID-19 pandemic is impacting claims for auto insurance providers; and
 2. Mandate refunds to policy holders, as supported by data from auto insurers, to reflect the actual risks of providing auto insurance in this crisis period.
- Explore updating statutes to ensure the Department has the tools necessary to effectively enforce insurance pricing protections in statute, including for non-standard providers;
- Consider amending statute regarding the use of credit scoring in insurance pricing to ensure credit scores are not used to raise the cost of insurance for people impacted by the COVID-19 pandemic through loss of income, loss of employment, or negative health consequences; and
- Continue support of the important work of OPIC.

Thank you for the opportunity to submit comments.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ann Baddour".

Ann Baddour
Director, Fair Financial Services Project

COVID-19 Pandemic Should Not Be Profit Boon for Texas Auto Insurers

New Data Show Most Texas Auto Insurers Fall Short on Refunds and Credits as Texans Continue to Drive Less due to the COVID-19 Pandemic

Average vehicle miles traveled and the number of automobile accidents in Texas are down dramatically due to the COVID-19 pandemic. Recent data on vehicle miles traveled in Texas show a 60% or greater decrease for some periods from March 10 through June 1, 2020, compared to January of 2020. Though driving has increased as the economy opens up, it has not reached pre-pandemic levels.

Texas Change in Vehicle Miles Traveled

March 10-June 1, 2020

Compared to Average Daily Vehicle Miles Traveled in January of 2020

March 10 - 16	March 17 - 23	March 24 - 30	March 31 - April 6	April 7 - 13	April 14 - 20
22%	-49%	-61%	-67%	-66%	-61%
April 21 - 27	April 28 - May 4	May 5 - 11	May 12 - 18	May 19 - 25	May 26 - June 1
-56%	-49%	-41%	-43%	-30%	-28%

Source: StreetLight Data (June 12, 2020).

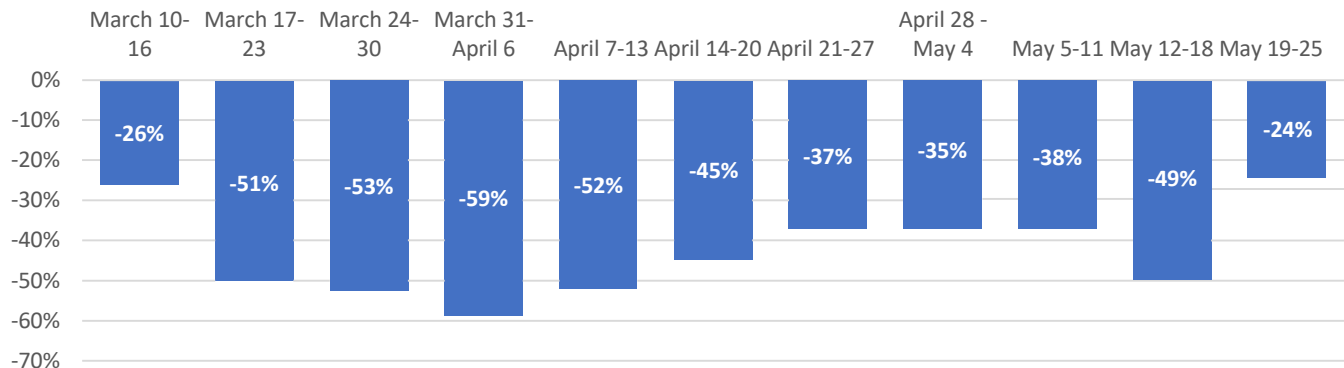
Texas auto insurers are required to base pricing on risk of losses due to claims. New data documenting their varied responses to the pandemic call into question whether all insurers are following state law. **The data indicate that Texas auto insurers are reaping a coronavirus windfall estimated to be between \$606 million and \$869 million.**

Top findings include:

- **Auto accidents continue to decline compared to the same period in 2019.** Average weekly declines in accidents ranged from 26% to 59%. The average weekly decline over the study period was 43%.

Decline in Auto Accidents in Texas Compared to Same Period in 2019

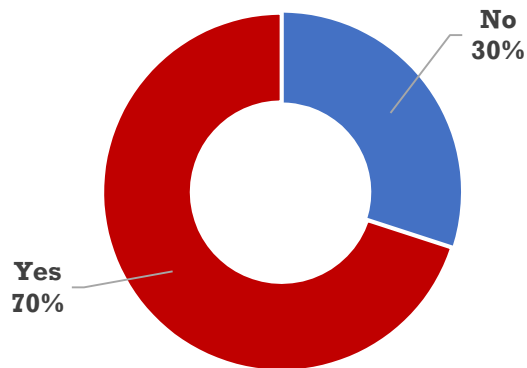
Average Weekly Decline of 43% from March 10 to May 25, 2020



Source: Texas Department of Transportation Crash Records Information System, accessed June 16, 2020. Analysis by Consumer Federation of America.

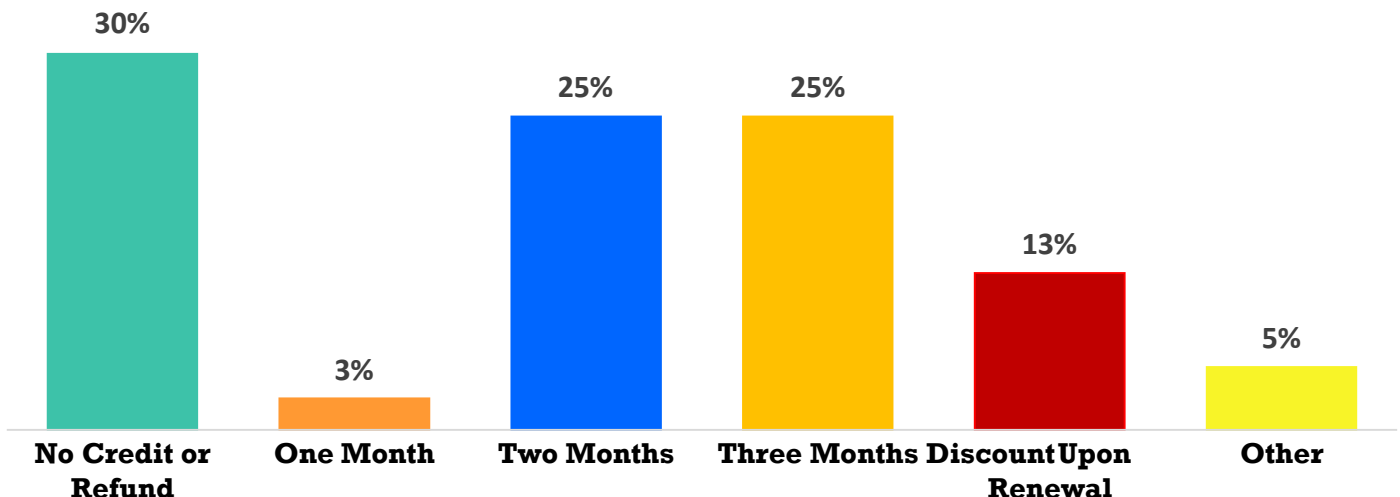
- **Nearly one in three of the top 40 auto insurers in Texas has not offered any credit or refund to customers**, despite the drop in travel and accidents. As a result, many insured Texans are getting no relief from their insurer in this time of reduced auto claims and extraordinary financial hardship.
- **Companies that often serve the lowest-income Texans are the least likely to offer any rebates.** Among the nine companies in the top 40 identified as nonstandard providers—generally those offering primarily liability-only policies, serving higher-risk drivers, or drivers with no credit or low credit scores—only one offered any rebate to customers.

Percent of Texas Top 40 Texas Auto Insurers Offering Credit or Refund



- **Among those insurers offering rebates, amounts vary substantially**—rebates are not standardized across the insurance industry and have ranged from a one-time fixed dollar amount to a two-month 15% credit to a credit of 20% over a three-month period, among other variations. Other companies have given promises of future price reductions upon policy renewal. Some companies are offering discounts **only** upon renewal, which is concerning, as it undermines fair market competition—requiring people to renew with the same company to receive premium relief applicable to past coverage.

Credit or Refund Offered by Top 40 Texas Auto Insurers



- **Based on available data, COVID-19 relief payments in Texas fall short by an estimated \$606 million and \$869 million.**

A recent study by the [Consumer Federation of America and the Center for Economic Justice](#), which included an analysis of Texas crash data and vehicle miles traveled during the pandemic, estimates that relief payments should total between 25% and 30% of premiums for 3 months. Our estimate of actual rebates falls well short of this mark. This shortfall in relief payments represents the auto insurance industry's coronavirus windfall.

The broad range of credits and refunds—ranging from nothing at all to multiple months of credits—raises concerns that many insurers are not refunding Texans the amount they are due. Instead, some insurers are reaping excessive profits at the expense of struggling families.

[Texas Appleseed](#) submitted a letter to the Texas Department of Insurance on April 8, 2020, asking the Department to take action to ensure that auto insurers are adopting fair credit and refund policies, in compliance with state law, including:

1. To publish data comparing auto insurance claims for the time period of stay at home orders and the current gradual opening phase with the same times periods in 2019 to assess the impacts of the pandemic on auto insurer risk; and
2. As supported by data from auto insurers, use regulatory oversight to ensure that refunds to policyholders reflect the actual risks of providing auto insurance in this crisis period.

As part of ensuring fair pricing during and after the pandemic, it is also important for the Department to address the use of credit scores in insurance pricing. Millions of Texans will likely have lower credit scores due to the economic fallout from the pandemic. Auto insurers should not increase auto insurance rates based on pandemic-impacted credit scores. To that end, we urged the Texas Department of Insurance to:

1. Adopt rules that suspend the use of credit scoring for people impacted by the COVID-19 pandemic through loss of income, loss of employment, or through their health for at least one year after the termination of the emergency declaration in Texas.

To date, the Department has not responded.

Texas Appleseed is not alone in urging action. Similar requests for action have been submitted by AARP Texas, [Consumer Federation of America and the Center for Economic Justice](#), and [Texas Watch](#). Insurance commissioners in other states are taking action to ensure fair auto insurance pricing during the pandemic, including those in [Michigan](#), [New Jersey](#), and [California](#). Texas should also be a leader by ensuring all insured Texans receive appropriate refunds and credits from auto insurers.

In light of the new data included in this study, the Texas of Department of Insurance should use its powers to hold every auto insurer accountable. All Texans who own and operate a car, by law, must carry auto insurance. This unique legal requirement, coupled with the harsh economic realities, make action by the Department necessary and urgent.

Pandemic Response of Top 40 Auto Insurers in Texas

Nearly One in Three Offering No Credit or Refund Despite Reduced Driving and Claims

Insurers ranked by Texas Department of Insurance based on share of market premiums in 2018.

Data Collected June 1 to June 4, 2020

Table 1: Texas Auto Insurers Offering a Credit or Refund

Auto Insurance Company	% Share of Texas Market	Details of Credits or Refunds Due to Reduced Driving During Pandemic
Allstate County Mutual Insurance Company	1.12%	15% credit for April, May, and June for personal auto insurance customers
Allstate Fire and Casualty Insurance Company	8.01%	15% credit for April, May, and June for personal auto insurance customers
Allstate Indemnity Company	1.39%	15% credit for April, May, and June for personal auto insurance customers
Amica Mutual Insurance Company	0.69%	20% credit received on auto premiums for April and May which will be seen in May and June 2020 bills
Auto Club County Mutual Insurance Company (AAA Texas)	1.60%	20% policy refund for the two-month period of March 16 to May 15, 2020
Colonial County Mutual Insurance Company (Part of the Nationwide family of companies)	1.52%	One-time \$50 refund for every auto policy active as of March 31, 2020
Consumers County Mutual Insurance Company (Travers Texas MGA Insurance underwritten by Consumer County Mutual Insurance Company)	2.55%	15% credit on April, May, and June 2020 premiums
Elephant Insurance Company	0.43%	Unspecified declaration to reduce auto insurance rates, which customers should see as they renew their policies
Esurance Insurance Company (Allstate)	0.49%	15% payback for April, May, and June to personal auto insurance customers
Farmers Texas County Mutual Insurance Company	6.98%	Certain personal auto premiums reduced by 25% for April and 15% for May
Geico Advantage Insurance Company	0.84%	15% credit for customer's entire 6 or 12 month policy if renewed between April 8 and October 7, 2020
Geico County Mutual Insurance Company	9.25%	15% credit for customer's entire 6 or 12 month policy if renewed between April 8 and October 7, 2020

(Table 1 cont.) Auto Insurance Company	% Share of Texas Market	Details of Credits or Refunds Due to Reduced Driving During Pandemic
<u>Geico Indemnity Company</u>	0.53%	15% credit for customer's entire 6 or 12 month policy if renewed between April 8 and October 7, 2020
<u>Germania Select Insurance Company</u>	0.83%	\$25 credit for each personal auto policy, awarded for April, May, and now June
<u>Government Employees Insurance Company</u>	1.92%	15% credit for customer's entire 6 or 12 month policy if renewed between April 8 and October 7, 2020
<u>Infinity County Mutual Insurance Company</u> (Nonstandard insurance provider)	0.82%	15% credit of April premiums in May and 15% of May premiums in June
<u>Liberty County Mutual Insurance Company</u>	5.06%	15% percent refund on two months' premium, beginning in April
<u>Metropolitan Lloyds Insurance Company of Texas</u>	0.44%	15% refund for two month's premiums for all policies active as of May 31, 2020
<u>Progressive County Mutual Insurance Company</u>	11.18%	20% credit of April premium in May and 20% of May premium in June
<u>State Farm County Mutual Insurance Company of Texas</u>	0.71%	25% of the premium for the period March 20 through May 31. On May 18, State Farm announced nationwide rate reduction, upon renewal, averaging 11% of the total premium amount
<u>State Farm Mutual Automobile Insurance Company</u>	14.28%	25% credit of the premium for the period March 20 through May 31. On May 18, State Farm announced an additional nationwide rate reduction, upon renewal, averaging 11% of the total premium amount
<u>Texas Farm Bureau Casualty Insurance Company</u>	0.91%	15% refund of customers' premiums over a two month period, beginning May 15, 2020
<u>Texas Farm Bureau Mutual Insurance Company</u>	1.56%	15% credit refund of customers' premiums over a two month period, beginning May 15, 2020
<u>Texas Farm Bureau Underwriters</u>	0.58%	15% credit refund of customers' premiums over a two month period, beginning May 15, 2020
<u>United Services Automobile Association</u>	2.76%	20% credit on two months of premiums to each customer, beginning on March 31, 2020. This policy was extended to include a third month of 20% credit on premiums to be awarded in late May 2020
<u>USAA Casualty Insurance Company</u>	2.50%	20% credit on two months of premiums to each customer, beginning on March 31, 2020. This policy was extended to include a third month of 20% credit on premiums to be awarded in late May 2020
<u>USAA General Indemnity Company</u>	1.74%	20% credit on two months of premiums to each customer, beginning on March 31, 2020. This policy was extended to include a third month of 20% credit on premiums to be awarded in late May 2020

Table 2: Texas Auto Insurers Offering No Credit or Refund

Auto Insurance Company	% Share of Texas Market	Details of Credits or Refunds Due to Reduced Driving During Pandemic
<u>ACCC Insurance Company</u> (Nonstandard insurance provider)	0.95%	No credit or refund
<u>Alinsco Insurance Company</u>	0.50%	No credit or refund
<u>American Access Casualty Company</u> (Nonstandard insurance provider)	1.22%	No credit or refund
<u>CEM Insurance Company</u>	0.44%	No credit or refund
<u>Dairyland County Mutual Insurance Company of Texas</u> (Nonstandard insurance provider)	0.35%	No credit or refund
<u>Foremost County Mutual Insurance Company</u>	1.04%	No credit or refund
<u>Home State County Mutual Insurance Company</u> (Nonstandard insurance provider)	1.53%	No credit or refund
<u>Loya Insurance Company</u> (Nonstandard insurance provider)	1.01%	No credit or refund
<u>MGA Insurance Company, Inc.</u> (GAINSCO insurance operations conducted through MGA Insurance Company Inc.; Nonstandard insurance provider.)	0.44%	No credit or refund
<u>Old American County Mutual Fire Insurance Company</u> (Nonstandard insurance provider)	1.63%	No credit or refund
<u>Redpoint County Mutual Insurance Company</u> (Nonstandard insurance provider)	0.75%	No credit or refund
<u>Southern County Mutual Insurance Company</u> (An AmTrust Company)	0.84%	No credit or refund

Sources for Table 1 and Table 2: Top 40 auto insurer data from the Texas Department of Insurance, available at: <https://www.tdi.texas.gov/company/top40.html#auto>. Nonstandard providers indicated under company name. Nonstandard data is based on a 2015 list compiled by A.M. Best Company for Consumer Federation of America. Nonstandard generally refers to auto insurers offering primarily liability only policies or policies serving higher risk drivers or drivers with no credit or a low credit score.